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CONTENTS

REPORTS

NOTES OF THE WEEK

Three New Judges

Her Majesty the Queen has signified her approval to the appointment of three new Judges to the High Court Bench. The three concerned are Mr. Edmund Davies, Q.C., Mr. Richard Elwes, Q.C., and His Honour Judge G. W. Wrangham.

Mr. Justice Davies, who is 51, was educated at Mountain Ash Grammar School, Kings College, London, and Exeter College, Oxford. He had a distinguished academic career before being called by Grays Inn in 1929. First he took his LL.B. at London University in 1926 and became a post-graduate research scholar. At Oxford he was Vinerian law scholar before proceeding B.C.L. and took a first class in his bar finals. He then secured a studentship with the Council of Legal Education. After this the new Judge became a lecturer at London University and acquired a good practice on the Welsh Circuit, taking silk in 1943 whilst serving in the Army. (He served with the Royal Welch Fusiliers and in the Judge Advocate-General's Dept. between 1939 and 1945). In 1942 he became recorder of Merthyr Tydvil and in 1944 he transferred to Swansea, an appointment which he relinquished to go to Cardiff nine years later.

Mr. Justice Elwes, comes of Roman Catholic stock which has distinguished itself in the arts. His father, Gervase Elwes, was a famous singer and his brother Simon is the well-known portrait painter. He was born in 1902 and educated at the Oratory School and Christ Church, Oxford. Called to the bar by the Inner Temple in 1925, he practised on the Midland Circuit and took silk in 1950. He is widely known as a forceful and witty advocate. His lordship served throughout the last war with the Northamptonshire Yeomanry and on the staff, ending as Lieutenant-Colonel and A.A.G. at the War Office and receiving the O.B.E. for his services. In 1946 he became recorder of Northampton and the same year chairman of Rutland county quarter sessions. Eight years later he was appointed chairman of Derby county quarter sessions.

Mr. Justice Wrangham has been Judge of Circuit No. 20 (Bedfordshire, Leicestershire, Lincolnshire, Northamptonshire and Rutland) since 1950 and chairman of the North Riding quarter sessions since 1946. He is 57 and was educated at Eton and Balliol before being called by the Inner Temple in 1923. After call he joined the North Eastern Circuit, and at first practised in London (where he was Gresham lecturer in law) before proceeding to the local bar at Bradford. He was appointed recorder of York in 1941 whilst on war service (he served with the King's Own Yorkshire Light Infantry and the Royal Armoured Corps, attaining the rank of Lieut.-Colonel). His lordship has to his credit considerable legal authorship for he edited two well-read practitioners' text-books, the 8th edn. of *Clark and Lindsell on Torts* and the 18th edn. of *Chitty on Contracts*. His appointment is a reminder that promotion to the High Court Bench is still open to the outstanding county court Judge. All these appointments have been well received by the bar and will reinforce the strength of the High Court Bench.

Law Reform

There is nothing new about complaints that the law is in need of reform and that reforms are too long delayed, but the difficulties in the way of reform are various and formidable. Not the least are the preoccupation of Parliament with other matters and the pressure of work on departments whose business it would be to prepare the necessary legislation. In a pamphlet entitled *Speed-Up Law Reform*,* Mr. Robert S. W. Pollard discusses the question, offers many criticisms and makes a number of suggestions. These suggestions include a proposal that a Vice-Chancellor, a lawyer and a member of the House of Commons, should be appointed to assist the Lord Chancellor, that a Parliamentary advisory committee of members of Parliament should be attached to the Lord Chancellor's department, and that Parliamentary procedure should be amended.

*London: The Fabian Society. 11 Dartmouth Street, S.W.1. Price 3*s.*

The subject of law reform is dealt with in some detail under various headings and among these are criminal law and matrimonial proceedings. Under the heading of "Procedure of the Courts," the author quotes from the report of the Hanworth Committee of 1935:

"It has been pointed out on many occasions and with great force that the practice and procedure of the courts is laid down in an unnecessarily complicated form. We agree that it does not seem either necessary or desirable that the rules of court should, with the explanatory notes, be contained in a book of nearly 3,000 pages. A clear and consistent code of procedure seems to us to be urgently required to cheapen and facilitate the administration of justice." Again in 1951 the Evershed Committee reported "We recommend in the strongest terms that a complete revision of the rules be immediately put in hand. The absence of such a revision must in some degree stand in the way of any attempt to simplify procedure."

An interesting suggestion is that it would be useful to give the Attorney-General power to ask the High Court, or in important cases the Court of Appeal, for an opinion on a point of law although no actual case is being litigated, the advice given to have the force of law.

The Manchester and Salford Poor Man's Lawyer Association

The 1956–57 report suggests that this Association, which has existed for 45 years, may cease to function before many years have passed, if the Legal Aid and Advice Act, 1949, comes fully into force. Be that as it may, it is certainly doing useful work at the present time, especially in view of the fact that the Act does not yet apply to magisterial proceedings. Representation in the magistrates' courts has to be limited in extent, but has been afforded in a number of affiliation and matrimonial cases.

During this year as in the previous year, matrimonial cases and landlord and tenant cases together provide about half the total number, though there is a slight reduction in the number of matrimonial cases. The total of new cases of every description was 3,416 against 4,104 the previous year.

The Association is not State-aided in any way, but this fact is evidently not appreciated by some who seek its assistance, as the following paragraph shows.

"There is, of course, a certain amount of confusion as to the present status of the Association, in the light of the Legal Aid and Advice Act, 1949. It is a curious commentary upon human nature that we have found unfortunately that with all the spoon-feeding arising from the birth of the Welfare State, we are sometimes taken for granted, or imposed upon, and some of those using the centres have the impression that the help given to them is now provided by the State and theirs as of right, and have altered their attitude accordingly."

The Association, and still more those members of the public who bring their problems to it, are much indebted to those members of both branches of the profession who are prepared to give up their time in order to advise and sometimes to represent those who are unable to avail themselves of legal assistance in the ordinary way.

Pity the Poor Policeman

We have never, we hope, underestimated the difficulties of the police in carrying out their manifold duties. These difficulties are not lessened by the need for trying to avoid antagonizing any particular section of the community on whose behalf they seek to enforce the law as a whole. From time to time one hears complaints of the police harrying motorists. At the same time one hears complaints (also from motorists) that (*a*) the traffic congestion is terrible and why don't the police do something to keep the traffic moving? and (*b*) that it is quite impossible to park one's car for five minutes without getting in trouble with the police. Then pedestrians complain that the police do nothing to stop cars tearing along the highway as if it were a race track, and why don't the police enforce the speed limit? and so on.

In *The Yorkshire Post* of January 1 is a report of a case in which a defendant wrote to the court at which he had been summoned to appear for exceeding the speed limit to say that "I do not think that two large, healthy policemen waiting for decent working people to exceed the speed limit on a perfectly straight road are doing a useful job of work." What he is saying, in effect, is that it is for him to judge when he ought to be allowed to break this particular law and that the police ought not to interfere to prevent his doing so. It may be that an argument can be put forward that a rigid speed limit is not a particularly effective safety measure and that more good is done by prosecutions for dangerous or careless driving than by prosecutions for exceeding the speed limit in circumstances in which the prosecution are not able to suggest that any danger was caused thereby. But so long as it remains the law that the speed limit in built-up areas is 30 miles per hour it is the duty of the police to try to secure the general observance of that law. This they can do only by prosecuting, from time to time, those who fail to observe it, and it is not unnatural that the venue for such offences should be a place where motorists are tempted habitually to commit them. According to the police who stopped him this defendant said at the time, "Why can't you leave us alone? Why can't you do a man's job?" He was fined £7 10*s.* and his licence was endorsed.

The Danger of the Drunken Driver

Those who are concerned with the problem of finding a solution to the accident problem sometimes argue that a great many more accidents are due to the fact that drivers have had too much to drink than are shown in the available statistics. Whether this is so or not, it is probably true that instances of bad driving which are seen all too frequently without their leading to any proceedings in court, almost certainly include a percentage of cases in which the bad driving is due to a loss of full control induced by too much alcohol. We have a report in the *Newcastle Journal* of December 13 in which a lorry driver admitted that he had been "on a frolic of his own" and added, "I cannot remember going back to the wagon as I was as drunk as a lord. I did not know that I had had an accident until next morning when I noticed that both my headlamp glasses were broken." His lorry had hit the near side of a light van, turned it round and crushed it against a lamp-post. He did not stop at the time and although he was stopped shortly afterwards by another motorist who saw the accident, he drove off without giving any particulars. The number of his lorry was taken. The charge against him was one of dangerous driving, there being presumably no evidence (other than his own statement) of his condition. But if that statement is true here was a man driving a heavy goods lorry when he was, in his own words, "as drunk as a

lord." There was a passenger in the van which was struck by the lorry and he was slightly injured. It would seem to have been a matter of mere chance that he was not killed. The magistrate who tried the case of dangerous driving (with other offences) fined the driver a total of £25 and disqualified him for two years. The magistrate said that in his 10 years sitting at that court this was certainly one of the worst traffic cases he had heard. It is certainly one which seems to support the argument that the figures do not tell the whole truth about the number of cases in which drink is an important factor; this case will be listed, presumably, as one of dangerous driving.

Parents Should Try to Stop This

Zebra crossings, properly used by pedestrians and by drivers of vehicles, do provide reasonable opportunities for the former to cross the road and give drivers the chance of being able, between the crossings, to proceed on their journey without fear that at any moment someone may suddenly leave the kerb to cross in front of them. We recognize that some drivers do not "play the game," and that some pedestrians will not bother to use the crossings and continue to cross just where they think they will. This is to be regretted, but much stronger condemnation is merited by those who deliberately take risks on the crossings as a kind of dare-devil game. We had not heard of this practice until we read about it in the *Newcastle Journal* of January 1. It is there stated that teenagers have invented a game in which they wait at a zebra crossing and then run across in front of approaching traffic. Presumably the point of the "game" is to leave the dash across to the last possible moment so that there is the maximum screeching of tyres on the road as unfortunate drivers brake to avoid those crossing. Sooner or later someone playing this "game" will be killed. The matter was reported by a bus driver who said that the youngsters never did this when any police were watching the crossings. The Road Safety Committee to whom the report was made agreed to leave the police to look into the matter. It seems to us that it may be difficult to find any offence which fits this particular conduct; it certainly does not come within reg. 8 of the Pedestrian Crossing Regulations, 1954, which penalizes pedestrians who remain on the carriageway longer than is necessary for the purpose of passing over the crossing with reasonable dispatch. But if the police could bring such conduct to the notice of the parents of the "offenders" it should not be beyond the ability of parents to find some appropriate means of impressing upon their children the fact that such conduct cannot be tolerated. We hope that any parent so concerned would wish to do everything in his power to put an end to this so-called game.

The Obliging Policeman

A motorist who attends to answer a summons for an offence which may lead, on conviction, to his being disqualified, is perhaps unwise to drive to court in his car unless there is someone available to drive the car home if the worst happens. A court cannot suspend the operation of its order to allow the defendant to drive the car away, and every defendant will not be as fortunate as was the one whose case is reported in *The Western Morning News* of December 11. He was convicted of driving without reasonable consideration for other persons using the road and he was disqualified for a month, and thereafter until he had passed a driving test. He told the court that he did not intend to take out a new driving licence when his present one expired and that he hoped the justices would regard this as meeting the case. When he was disqualified, he asked the chairman if he might drive home and was told, of course, that he could not. Then the constable who had given evidence against him came forward and it was arranged that he should drive the defendant home. The requirement as to insurance was met by the fact that the constable's insurance policy allowed him to drive other vehicles in addition to his own. We have no doubt that the defendant was duly grateful for this friendly action on the part of the policeman.

An Alternative to Borstal

A youth who was in all probability about to be sentenced to borstal training was saved from such a sentence by the intervention of a lady who made a practical offer to the Northallerton quarter sessions. The defendant, who admitted several offences of breaking and entering and stealing, was stated to have been "farmed out" since he was two years old and never to have had the security of a real home life. The lady, who was interested in a youth movement, said, according to *The Yorkshire Post*, that she and her husband were willing to take him in and treat him as one of the family. She had a roomy house and could give him a room of his own.

The result was that the youth was put on probation for three years. Probation officers, after-care workers and others engaged in helping offenders, constantly emphasize the need for the co-operation of the public in affording employment and living accommodation. That kind of help is likely to be far more difficult to obtain than money, but it may be of much greater value. Most of us would have to admit, if we are quite candid about it, that we should hesitate long before offering a home to an offender such as the 19 years old youth at Northallerton, especially if we had, as the people who took him in have, young children at home. All credit to the lady and her husband who have taken some risk, and let us hope the youth will appreciate what a chance the court has given him, thanks to those who have befriended him in this generous way.

Noctambulation Again

The Police Review for December 27, 1957, mentions that the Wallasey Corporation Bill to be promoted in the present session contains a clause which will empower constables "to stop and search persons reasonably suspected of being in possession of stolen property, and to detain them if their addresses are not known and cannot be ascertained." It goes on to say that a similar clause has not been embodied in a local legislation Bill for some years, though it was attempted unsuccessfully in the Lancashire County Council (General Powers) Bill, 1951, and that in Lancashire there are six cities or boroughs where such an enactment is in force, with the result that their police forces are better able to check crime than are the county police or other borough forces. It may well be that the county council's failure to secure these powers for the county police, and hesitation about asking for these powers in Bills promoted by town councils who have their own police force, has partly arisen from the notorious cases at Liverpool of which we spoke in an article at 114 J.P.N. 660, where the city police had gone far outside even their own exceptional powers. We agree with *The Police Review*, that it is wholly wrong to have different powers for stopping and arresting people on suspicion in different police areas: this was indeed the main theme of our article just mentioned. It does not follow that the proper remedy is

local legislation, conferring the exceptional power possessed by the Metropolitan police and a few other forces upon the forces in particular towns.

The Police Review remarks that where these powers exist there are few complaints, but this does not prove that the power as now framed ought to be extended. If the House of Commons really cared for personal liberty, it would insist that the whole matter be looked into.

The ordinary person who is stopped in the street at night by a policeman in uniform will not normally complain, provided he is courteously treated and not seriously delayed, in getting home or as the case may be. Amongst other reasons, he usually realizes that publicity would add to the unpleasantness of the experience. He may, however, as we pointed out in an article at 120 J.P.N. 438, feel a good deal of natural resentment at being suspected without cause, and subjected to the indignity of turning out his pockets or his suitcase. *The Police Review*, in quotation marks above, speaks of persons reasonably suspected of being in possession of stolen property. The sections in local Acts differ in their language, but those with which we are most familiar, namely, those in the Metropolitan Police Acts and at Liverpool, go a good deal beyond the quoted words. Even if the power were confined to the quoted words, the ordinary householder walking home after arrival by a late train might well be affronted when he realized that the constable who stopped him claimed to have reason for suspecting that there were stolen goods in his hand bag. In our earlier articles we mentioned actual cases in which appreciable inconvenience was caused, not merely to the person whom the constable suspected but to other people, who were called out of bed to confirm statements made (quite truly) by the suspected person.

It is to be hoped that the Home Secretary will report to Parliament against the Wallasey clause, and that it will be disallowed by the parliamentary committee considering the Bill, if only for the reason that the law affecting personal liberty ought not to be varied from town to town by local legislation. The committee would, however, be performing a public service, if it pressed on the Home Secretary the appointment of a strong departmental committee, to examine all the existing local Act provisions, and to advise whether a suitable provision could be added to the general law. It would then be possible to consign to limbo such ill-drafted provisions as those of the Metropolitan Police Act, 1839, and the provisions dating from 1842 which were reproduced in the Liverpool Corporation Act, 1921.

Fees for Medical Services for Police

Cases frequently occur where the police require reports from hospital doctors, notably those acting as casualty officers.

The remuneration in the appropriate countries of consultants and other senior officers is governed by a document entitled "Terms and Conditions of Service of Hospital Medical and Dental Staff (England and Wales)" para. 14 of which deals, *inter alia*, with the retention of fees. A distinction is made between work which is within the scope of the hospital and specialist services provided under s. 3 of the National Health Service Act, 1946, and work which is not. Numerous examples of each class of work are given in a schedule to the paragraph. It is laid down that where services such as the rendering of medical reports on patients who are under observation or treatment, or the examination, diagnosis and rendering of reports on persons referred to hospitals for these purposes only are not within the scope of s. 3 they may be made available at hospitals or by members of hospital medical staffs on payment of appropriate charges. These charges may consist of two elements, viz: (*a*) payment for professional services and (*b*) payment of hospital costs. (Where hospital laboratory or radiological facilities are not required no charge is made for hospital costs, only professional services being charged for.)

Work done at the request of the police in connexion with legal proceedings must be paid for, as being outside the scope of the services provided under s. 3.

It should be noted, however, that a general practitioner is not entitled to make a charge for examining a person who is one of his National Health patients: further that he is not likely to make a charge in an emergency. Therefore, the most economical course for the police to adopt is, wherever possible, to take the person concerned for examination to the doctor with whom he is registered under the National Health Service.

Fire Service Costs 1956–57

The annual Return prepared jointly by the Society of County Treasurers and the Institute of Municipal Treasurers and Accountants shows that fire service costs continued to increase in 1956–57. The figures for the past five years are:—

Year	*Expenditure met from Rates and Taxes*	*Increase over Previous Year*	*Percentage Increase*
	£	£	
1952–53	16,720,000	1,400,000	8
1953–54	17,360,000	640,000	4
1954–55	17,750,000	390,000	2
1955–56	19,040,000	1,290,000	7
1956 57	20,748,000	1,708,000	9

Expenditure on pay and pensions accounts for close on three-quarters of the total cost of the fire service and in this field costs have steadily risen. As long ago as 1954 the County Councils Association in evidence before a Select Committee on Fire Estimates urged a review of fire risk categories as a means of effecting economies. These risk categories vary from category A, containing congested urban centres with important risks such as docks to E, applicable to urban communities without any of the risks which would place them in a higher category, and F, all risks not falling into the other categories, except remote rural areas. They determine of course the standard of fire cover in each area. The Select Committee adopted this suggestion, stating that they were convinced that the time had come for the whole basis of risk categories and standards of cover to be re-examined in the light of the experience and developments of the last six years. This review has certainly not produced any economies in manpower up to 1956–57: authorized whole-time establishments have continued to increase and the total of 20,534 at December 31, 1956, represents an increase over the previous year of 371. There was a reduction of 127 in part-time personnel establishments.

Costs per 1,000 population are naturally higher in county boroughs than in counties because of the higher standard of cover required in town than in country. In the boroughs net rate and grant borne expenditure equalled £471 per 1,000 population: the corresponding figure in the counties was £426. The counties are able to make much greater use of part-time personnel than is possible in the boroughs.

The highest rate levy in the counties was 11·9*d.* in Monmouth and the lowest Hertford with 4·1*d.*: the highest county borough was Bootle with a rate of 14·5*d.* and the lowest Bournemouth at 3·5*d.*

Fire losses in the United Kingdom amounted in 1956 to £27½ million: without the good work of the brigades much greater losses must inevitably have been sustained.

SPECIAL ORDER OF EXEMPTION: GRANT TO HOLDER OF PROTECTION ORDER

Again a new edition of *Paterson** is at hand in good time before brewster sessions of 1958: this as necessary for the purpose of informing us of changes in the law as for the purpose of satisfying us that on some point concerning which exactness is important no change has occurred.

Paterson is a library in itself, dealing comprehensively with a branch of law that rarely breaks its own bounds: if it is licensing law that you want, here it is.

Mr. Morton Smith, as is customary, usefully calls attention in his preface to statutes and cases of 1957 which have bearing on the subject. *R.* v. *County Licensing (Stage Plays) Committee of Flint County Council, ex parte Barratt* (attaching a new restrictive condition to a long-standing licence for stage plays without giving the applicant an opportunity of being heard), *R.* v. *Confirming Authority of Derby Borough Justices, ex parte Blackshaw* (confirmation of grant of ordinary removal after death of grantee), *R.* v. *Middlesex Confirming and Compensation Committee, ex parte Frost* (whether "non-drinking rooms" available for the accommodation of the public answer statutory qualification), *Secretary of State for Air* v. *Tull: in re The Volunteer Inn, Crookham Common* (assessment of compensation in respect of a licence in suspense), are noticed. Reference is also made to an interesting application for special removal made to Portsmouth Licensing Justices in respect of a licence in suspense of the long-gone Goat public house, destroyed by enemy action in 1941. This application was granted although the Commissioners of Customs and Excise protested that the matter was a proper one to be dealt with in accordance with the set-off in monopoly value procedure contained in s. 7 of the Licensing Act, 1953.

Certain footnotes have been re-written; for instance we notice a new footnote to s. 107 of the Licensing Act, 1953 (*see* p. 930), in which an editorial opinion is expressed that it is doubtful if a special order of exemption can be granted to a person to whom a protection order has been granted "as he is not the holder of a justices' licence." The footnote goes on to mention that s. 23 (4) of the Act provides that the provisions of the Act relating to the *regulation, government or control of persons* holding a justices' licence shall, while the protection order is in force, apply to the person to whom a protection order has been granted as they apply to the holder of a justices' licence, and an editorial comment is made that "it may well be that the words in italics are meant to refer to certain sections of the Act governing the proper conduct of the licensee and management of the public house."

This is startling. So far as we know, good licensing administration has prompted magistrates' courts to grant unhesitatingly what good licensing management has asked for in this regard, and this notwithstanding that the applicant might be carrying on licensed business by virtue of nothing stronger than a protection order. Have we here another lacuna in licensing law, noticed for the first time nearly half a century after the form of words to which attention is directed first appeared? Have we been going wrong for all this long time?

To the extent that authority is drawn from *Price* v. *James* (1892) 56 J.P. 471, and *Andrews* v. *Denton* (1897) 61 J.P. 326, for the statement that a person to whom a protection order has been granted is not the holder of a justices' licence, it is suggested that the statement is too comprehensive: (i) these cases were decided by reference to their own peculiar facts, having no resemblance to the situation which gives rise to the present question of doubt; and (ii) they were decided, as we will endeavour to show, during a period in the history of licensing law when there could be no doubt that the person to whom a protection order was granted became, by that same token, entitled to carry on the business of a "licensed victualler" by virtue of which status he was entitled to seek what then corresponded with a special order of exemption.

It is well known that the Licensing Act, 1872 (by s. 24) fixed closing hours for all premises on which intoxicating liquors were sold or exposed for sale by retail. Outside London, these hours, on weekdays, were fixed so as to permit opening between 6 *a.m.* and 11 *p.m.*, subject to licensing justices being enabled by order to vary these hours so as to permit opening for the sale of intoxicating liquor (in the extreme limit) between 5 *a.m.* and midnight. The prohibition of all-night drinking was not passed without arousing bitter controversy and Parliament, impressed by the enormity of what it was enacting, introduced by way of compromise, in s. 29 of the Act, a secondary form of occasional licence which made provision for a *licensed victualler* to apply for a licence exempting him from the provisions of the Act relating to the closing of premises on any special occasion or occasions.

Already in the system of licensing law was the Licensing Act, 1842, s. 1 of which created what was later to be known as the "protection order," that is to say—"a licence to sell excisable liquors by retail . . . until the next ensuing special session. . . ." The prolix section concluded with a proviso—"Provided also, that any person or persons who shall be authorized under the provisions of this Act to continue to carry on the business of a *licensed victualler*, shall, after the obtaining such authority, and so long as the same shall continue in force, be subject to *all the powers, regulations, proceedings, penalties, and provisions* declared by or contained in any Act or Acts in force touching the *regulation, government or control* of licensed keepers of inns, alehouses, victualling houses, in like manner as if the same had been repealed and re-enacted . . ." Thus we find that a protection order operated to authorize the carrying on of the business of a licensed victualler; and, as we have seen, it was a person with the status of licensed victualler who might apply for that species of occasional licence which, by a later law, has come to be known as a special order of exemption. We see too that in this provision of the Act of 1842 the phrase "regulation, government or control" had an antecedent aid to construction in the phrase "all the powers, regulations, proceedings, penalties, and provisions," the latter phrase surviving to the present time, as we shall see, only in the word "provisions."

Subject to a variation in the statutory closing hours contained in the Licensing Act, 1874, the law as set out above remained undisturbed until 1910.

The Licensing (Consolidation) Act, 1910, as its preamble makes plain, was designed to consolidate the law relating to

**Paterson's Licensing Acts.* Sixty-sixth edition. By F. Morton Smith, B.A., solicitor and clerk to the justices of Newcastle-upon-Tyne. London: Butterworth & Co. (Publishers) Ltd., Shaw & Sons, Ltd. Price 67*s.* 6*d.* net: Postage 2*s.* extra.

justices' licences for the sale by retail of intoxicating liquor, re-enacting it without the verbosity of the "old syle." Closing hours, in the provinces, on weekdays, were fixed as from 11 *p.m.* until 6 *a.m.* (s. 54; sch. 6); the power to grant a protection order pending transfer was re-enacted in s. 88, but, by a change in the language of the section, no longer was the person to whom it might be granted dubbed a "licensed victualler"—he had become "the holder of a justices' on-licence"; and instead of his being clothed with "all the powers, regulations, proceedings, penalties, and provisions," he found himself clothed merely with the "provisions" of the Act with respect to the (unchanged in language) *regulation, government or control;* and this of "holders of a justices' licence in the same manner as if he were the holder of a justices' licence" instead of "licensed keepers of inns, alehouses, victualling houses." Section 57 of the Act abandoned the use, in this connexion, of the description "occasional licence" and enacted that "an order (in this Act called a special order of exemption)" might be granted to the holder of a justices' on-licence exempting him from the provisions of the Act as to closing hours on any special occasion or occasions. It is submitted that the changes in language were not intended to be more than an adaptation to the terminology generally used in the Act.

We are guided in our efforts to construe a consolidating statute by a rule, as expressed in *Maxwell on the Interpretation of Statutes*, 9th edn., at p. 26: "If an Act is intituled an Act to consolidate previous statutes, the Courts may lean to a presumption that it is not intended to alter the law and may solve doubtful points by aid of such presumption of intention rejecting the literal construction": authorities cited are *Gilbert* v. *Gilbert and Boucher* [1928] P. 1, 8; citing *Mitchell* v. *Simpson* (1890) 25 Q.B.D. 183; *Notts C.C.* v. *Middlesex C.C.* [1936] 1 K.B. 141, 145; *Re Turner's Will Trusts* [1937] 1 Ch. 15, 24; Romer, L.J. in *Swan* v. *Pure Ice Co.* [1935] 2 K.B. 265, 274–6.

It is submitted that if the point had arisen immediately after the passing of the Act of 1910 on the construction of ss. 57 and 88 (7) of that Act, the High Court would have looked at s. 1 of the Act of 1842 and s. 29 of the Act of 1872 (which the sections of the Act of 1910 were designed to re-enact) and would have resolved the doubt by holding that the change in language in the Act of 1910 had effected no change in the law. If this submission would have been sound in 1911, its validity survives until the present day, for the consolidating statute of 1953, in ss. 23 (4) and 107, in all material respects, exactly reproduces the language of ss. 57 and 88 (7) of the Act of 1910.

This reviewer has always held in high admiration the editorial industry of William W. Mackenzie (later Lord Amulree) whose editorship of *Paterson* lasted long enough for him to incorporate in its pages, with full annotations, the "new" Licensing (Consolidation) Act, 1910. In Mackenzie we had not only great editorial skill: we also had abundant knowledge and undoubted enthusiasm for the subject of licensing law. His was the contemporary authentic voice pronouncing upon changes brought about by the Act of 1910, yet his voice was silent upon the matter which we have (so laboriously) been considering.

Very respectfully, we invite the learned editor to reconsider the footnote to which we have referred, thanking him the while for having given to this reviewer something that he could take between his teeth. *Paterson's* excellence is so well known that the task of a reviewer ordinarily lacks anything of excitement.

HISTORICAL TREATISES AS EVIDENCE

By A. H. HUDSON

It is a well-known rule of the law of evidence that reliable historical works may be used as evidence to prove matters of public or general importance, this proposition being supported by *Read* v. *Bishop of Lincoln* [1892] App. Cas. 644, in which mention was made of the impeachment of Warren Hastings when the House of Lords allowed a general custom of the Mohammedan religion to be proved from Cantemir's *History of the Turkish Empire*. Two seventeenth century authorities, *The Case of St. Katherine's Hospital* (1671) 1 Vent. 149 and *Brounker* v. *Atkyns* (1681), Skin. 14, in which mention was made of an otherwise unreported House of Lords case, *Lord Bridgwater's Case*, to the same effect, support the general rule.

The corollary of this rule is that historical treatises cannot be cited for matters of a private, local or particular nature and abundant authority may be found to support this restriction. The best known of the many cases is perhaps *Stainer* v. *Droitwich* (1695) 1 Salk. 281, where the court refused to accept Camden's *Brittania* as proof of a local custom as to the digging of salt pits. Amongst other cases cited in the reports of this case is one in which Dugdale's *Monasticon* was rejected as evidence of matters relating to Fountains Abbey because the original records were available. *Lady Ivy's Case* was also cited (under varying names in the different reports) as an example of the admission of historical works in evidence but it seems from the full report in the State Trials (*sub. nom. Mossam* v. *Ivy* 10 How. St. TR at 625) that they were rejected by Jeffreys, C.J., who called the proffered chronicles "a little lousy history" and said "is a printed history, written by I know not who, evidence in a court of law?"

In *Piercy's Case* T. Jones 164, *Dugdale's Baronage* was not accepted as proof of a descent and in *R.* v. *Reffit* (1734) Cunningham 36, Coke's Institutes were not admitted to prove what the court regarded as a matter of history, the fees which could be claimed by the clerk of a market. From a note appended to Cunningham's report it appears that the Chief Justice equated the rejection of the Institutes as historical evidence with the rejection of the *Brittania*. In *Harward* v. *Sims* (1810) 4 Price 427, a book known as Archbishop Wells' Book of Endowments, a thirteenth century collection of ecclesiastical administrative memoranda, was not admitted by Le Blanc, J. The book, however, does not seem to have been a historical work in the ordinary sense of the term because it was anonymous and not generally accessible, apparently being kept in a Diocesan Registry. The circumstances which resulted in the reporting of this case illustrate the perils of *ex relatione* citation. In *Leonard* v. *Franklin* (1817) 4 Price 262, Richards, C.B., after expressing grave doubts as to the admissibility of the Book of Endowments, only admitted it on the strength of three cases cited to him in which counsel said the book had been admitted. The reporter investigated the matter and found that in two of the

cited cases no objection had been made and in *Harward* v. *Sims* the decision was to the contrary effect. It further appears from the reports that counsel, Dauncey, who cited *Harward* v. *Sims* in support of admissibility in *Leonard* v. *Franklin* had been engaged in the earlier stages of *Harward* v. *Sims* on the side opposing admission.

Though the restriction in respect of matters of local, private or particular significance is well-known, less attention seems to have been paid to those cases which appear to limit or modify the restriction. In view of the fact that the Privy Council in *Read* v. *Lincoln* regarded reliable histories as a most desirable form of evidence, and since they may much assist in arriving at the truth of matters otherwise difficult to prove, it is submitted that these cases deserve investigation.

In the *Vaux Peerage Case* (1837) 5 C. & F. 526, objection was raised by the Attorney-General to the production of the chronicles of Stowe to prove matters of history. A short argument is reported at pp. 574–5 which was terminated by Lord Lyndhurst saying: "All you can do is to prove your case, and then say, it is singular that Stowe has stated so and so; we may admit it not as evidence but as a singular coincidence." Thus it is apparently permissible to buttress admissible evidence by showing that it is consistent with the view taken by historians of authority even though the matters in question are of a local, private or particular nature.

In *Evans* v. *Getting* (1834) 6 C. & P. 586, Nicholl's *History of Brecknockshire* was held to be inadmissible to prove the situation of the boundaries of two parishes, which admittedly coincided with county boundaries, the question in dispute being the limit of the plaintiff's right of common, which depended on the situation of these boundaries. This case must not, however, be regarded as rendering inadmissible all local histories. Alderson, B., made it plain that the rejection in this case was based upon motive to misrepresent in the historian, saying: "This is a history of Brecknockshire. The writer of that history probably had the same interest in enlarging the boundaries of the county as any other inhabitant of it. It is not like a general history of Wales."

The suggestion of Alderson, B., as to the admissibility of the history of Wales in the case before him, seems to go far to undermine the two propositions contained in the following passage from *Wills On Evidence*, 3rd edn., p. 26, saying that historical works: ". . . are not admissible in evidence in any dispute affecting rights of a private or local nature, nor as conclusive of any matter which is not sufficiently notorious to be judicially noticed."

It is submitted that what matters is not the nature of the dispute before the court, but the nature of the matters to be proved from the historical work. On the question of judicial notice it is well settled that local government boundaries may not be judicially noticed: *Thorne* v. *Jackson* (1846) 3 C.B. 661; *Brune* v. *Thompson* (1841) 2 Q.B. 789. In order to reconcile the dictum with *Stanier*, *Reffit* and *Piercy* it is necessary to say that local government boundaries are public matters and that reliable general histories are admissible to prove public matters in disputes of a private or local character, but not to prove private matters (including merely local rights and customs) in disputes either of a public or private character.

Other dicta in favour of the admissibility of local histories come from Dr. Lushington but are unfortunately weakened by a garbled reference to *Evans* v. *Getting*. In *White and Jackson* v. *Beard* (1840) 2 Curt. 480, it was sought to produce Morant's *History of Essex* in evidence on the question whether Great and Little Coggeshall were one parish. Counsel said (at p. 485) that they had been informed that the book had been admitted at Assizes 15 or 16 years previously to prove who was liable for the repair of a certain bridge. Little attention need be paid to this hearsay *ex relatione* statement but Dr. Lushington set out his views of the limits on the use of county histories at p. 492.

"According to my apprehension I should have thought that a county history of this description is not evidence to prove any one particular fact, such as to show that a particular parish paid such tithes, or a modus in lieu, or that a parish paid Easter offerings to the vicar; so far as regards these facts a county history would not be admissible evidence. But in respect to a matter concerning the whole public, as for example, at what time or place a particular battle was fought, I always thought a county history was admissible. But Dr. Nicholl has cited the authority of Alderson, B., who admitted a county history as evidence of a particular fact, relating to the boundaries of a parish. The case occurred at *Nisi Prius*, and the writer of the book had no interest in extending the boundaries of the parish."

The question of admissibility in the instant case was, however, reserved by Dr. Lushington and never answered.

In *Stanier* v. *Droitwitch* and some of the text books such as *Phipson*, 9th edn., p. 394, "general" or "public and general" histories are spoken of as being admissible to prove a matter relating to the kingdom in general. If county histories are admissible it would seem that this reference to generality should be taken as referring not so much to the scope of the work as meaning a history generally available for public examination and criticism. This not only allows of the admissibility of county histories but is also much more relevant to the reliability of the work than mere scope of contents would be.

In *Cockman* v. *Mather* (1727) 1 Barnard. K.B. 14, chronicles were rejected as evidence on the question whether Alfred had founded University College, Oxford, the Chief Justice remarking that such evidence was only admitted on matters concerning "the Government." Taken in that unqualified form this dictum seems to conflict with the admission of Cantemir's *History* in the trial of Warren Hastings and with *East London Railway* v. *Thames Conservators* (1904) 90 L.T. 347. Here the railway company opposed a proposal of the Conservators to dredge the river bed over the Thames Tunnel. Direct evidence of the type of soil at this point could not be obtained without endangering the tunnel so reference was made to the report of Brunel, the constructor of the tunnel. This was admitted by Farwell, J., who said he regarded the matter "in the same way as I regard any other fact of history which did not take place within living memory, if it is established by authentic records." He also remarked that the report was generally accessible to engineers and accepted by them as true. This would seem to give further support to the concept of generality suggested in connexion with the county histories.

This case fell to be considered by Astbury, J., in *Fowke* v. *Berrington* (1914) 2 Ch. 308. Here the learned Judge refused to admit Habington's *Survey of Worcestershire*, a work written in the seventeenth century, regarded as a historical authority, but at the date of the case only recently published, on the question of the state of repair of a church at the time when the author saw it. The decision was largely based on *Att.-Gen.* v. *Horner No. 2* (1913) 2 Ch. 140 at 153, where the Court of Appeal, with great reluctance, refused to admit in evidence maps of the Strand, partly because they were statements of particular facts, not of reputation, in a dispute

involving public rights and partly because their authority did not seem well enough established. Astbury, J.'s, grounds for rejecting the survey were similar but he distinguished *East London Railway* v. *Thames Conservators* on the grounds that Brunel had been the constructor of the tunnel and that he had prepared the report in the course of his duty. The reference to Brunel being the constructor of the tunnel may perhaps be generalized into the statement that the report carried the highest guarantee of authenticity. So limited, the *East London Case* comes very near to the category of statements made by a deceased person in the course of duty but perhaps it may not be quite so confined as that well-known exception to the hearsay rule in that it may not be governed by the rule in *Chambers* v. *Bernasconi* (1834) 1 C.M. & R. 347, and therefore the *East London Case* may allow of matters being put in evidence which it was not the recorder's strict duty to record. Further it may not be limited to records made contemporaneously with the matters recorded and it may not be limited merely to accounts of the recorder's own acts. That is to say the rule in *The Henry Coxon* (1878) 3 P.D. 156, may not apply. Thus the *East London Case* seems to open an area, the precise limits of which cannot be drawn at present, in which it is permissible to use a reliable historical work in evidence in a dispute of a local, private or particular character.

Finally there is one case which not only lends support to the suggested need for qualification of the dictum in *Cockman* v. *Mather* and supports the admissibility of county histories but also seems to open what may be in principle an even wider field than that opened by the *East London Case* for the use of histories in cases of a local, private or particular nature. In *Shaw* v. *Pickthall* (1818) Dan. 92, the question in dispute was whether certain almshouses were in mortmain before the Charitable Uses Act, 1736. To prove this, counsel called a witness who said that ever since he had known the almshouses a didactic verse (set out in full in the report) carved in stone and dated 1626 was fixed in the centre of the front of them. Counsel then read a passage from Farmer's *History of Waltham* published in 1735, which mentioned almshouses in the situation of the ones in question carrying the date and verse already sworn to and which stated that these houses had been founded by one Green, purveyor to King James I, for four widows. Richards, L.C.B., accepted this and said that from the ancient date of the inscription the Court had to presume that these buildings were in existence long before the statute. The implicit conclusion was also drawn that they had been in mortmain.

On the basis of this case which does not seem to have been questioned or even referred to in later cases, might it be suggested that historical treatises which are public and general in the sense of being open to public knowledge and criticism are admissible even in disputes of a local or private nature to prove facts of a local, private or particular significance when they are corroborated by some material matter of fact relevant to the matter to be proved ?

Thus, it is submitted, the *Vaux Peerage Case*, the *East London Case* and *Shaw* v. *Pickthall* in varying ways open fields of usefulness for history books as evidence in regard to private and local matters and in disputes of a private and local character. In conclusion, it may well be asked whether the restriction still plays any useful part in the law of evidence. Since the restriction is itself so restricted, since the reliability of evidence is safeguarded by the Judge's discretion to reject works not of approved authority, it would appear that its only function at the present is to hamper the full discovery of the truth in any case in which it may be invoked. This, it is suggested, is not a worthy part for any living rule of the law of evidence to play.

A QUESTION OF SPACE

By A. S. WISDOM

The current press is still full of news and views about the shape of things to come in the wake of the successful launching of a living animal into a satellite orbit. Briefly, we are told, the next steps involve the means of shooting a missile containing a man into space and solving the many problems relevant to his prolonged survival and safe return to earth, and then the despatch of a manned spaceship to the moon or beyond. Before the now immortal canine joined the ranks of the explorers of the unknown, the greatest height attained by man into the atmosphere was around the 20 mile mark accomplished by an American in a balloon. Flights by high-altitude aircraft have been made somewhat below this limit.

There are still many who ridicule the idea of space-travel, but their days are inevitably numbered in view of the vast amount of research now being undertaken by many countries, and of which Sputniks I and II represent merely the early stages. One scientist envisages the earth being " encompassed by a whole family of artificial satellites—some serving as global television relay stations, some as communication offices and some as military observations posts registering ship and aircraft movements and new construction." He concludes on the sombre note that " control of outer space is as necessary a goal now for great Powers as control of the sea was to the maritime Powers of the seventeenth and eighteenth centuries." As one journal recently remarked, " space-fiction is rapidly becoming space-fact," Present emphasis is on technical problems confronting space travel, but within the next decade or so legal issues are bound to arise on this score.

Once man is capable of reaching out into space, then unless national rivalries are put aside, the first state whose missile " gets outside " can be expected to lodge claim to whatever lies beyond the earth's atmosphere. This might involve a claim to jurisdiction over the space around a satellite or rocket.

By international law each nation has sovereignty in the airspace over its own land areas and territorial waters. But how far beyond the earth does the airspace extend ? Some lawyers who have tentatively considered this field of thought venture to draw a distinction between airspace and outer space.

The atmosphere becomes progressively thinner above the surface of the earth and at some point (scientists at present can only say this may be several hundred or several thousand miles up) there is too little air to justify a reference to airspace and here presumably outer space commences. As no air exists in outer space it would be difficult to conceive any reasons to justify a claim to jurisdiction and there is no legal precedent that anyone has successfully laid claim to anything in the nature of *res nullius*.

Should a spaceship land on the moon or on one of the planets territorial claims can be expected, and in that event

the procedure to be followed may be guided by a number of terrestial precedents. Ever since Europe burst its bounds and discovered, settled in and fought over the Americas, Africa and parts of Asia and Australasia, its various nationalities have disputed the areas of settlement.

Of the various modes acknowledged by international law whereby states can acquire territory, namely: occupation, accretion, cession, conquest and prescription, it is likely that occupation would fit the bill for the acquisition of lunar areas. Occupation may be described as an act of appropriation on the part of a state by which it deliberately acquires sovereignty over new territory. Such territory must not belong to another state and it does not matter if it is occupied so long as the inhabitants do not themselves comprise a state. However, neither of these considerations is likely to affect the initial landing on the moon.

Occupation to be effective must include two elements, annexation and settlement. That is to say, the acquiring state has to take possession of the territory and establish a proper administration over it. Annexation should take the form of some prescribed act on behalf of the central government, such as the hoisting of a flag or a formal proclamation by a representative of the state appointed under letters patent. The administration must be a responsible authority capable of exercising the proper functions of government. Occupation extends as far as it is effective and claims to a whole hinterland or catchment area are not realistic if the occupying authority is not in a position to perform adequately the task of administering so large an area.

The casual colonization of the moon by a conglomeration of conflicting interests would be unfortunate and represents an out-of-date conception of future affairs measured in terms of modern scientific achievements. But is there any alternative?

Perhaps the outline of the solution is to be found here on earth. Today has witnessed the occupation by one state or another of the entire habitable surface of the globe except at the Poles. Various nationalities have asserted sovereignty over sectors of the Arctic and Antarctic regions, but the popular view of international lawyers appears to be that the Poles cannot become the subject of occupation because they are incapable of permanent settlement.

It would be deplorable if sovereignty over the polar regions was accomplished by an undignified scramble for occupation by the interested powers, or worse still, by conquest in a future conflict. A more tranquil pattern for developing polar potentialities could be brought about by these areas being placed under the mandate or trusteeship of some world organization by international treaty or by their being administered as a condominium by agreement between the states most concerned. Here, then, lies a peaceable means for occupying the moon, which shares certain common factors with the Poles, in inaccessability, non-habitation, low temperatures, etc.

An interesting problem could arise if the moon is first reached, not by manned missiles, but by electronically controlled rockets. Could the states which despatched such rockets successfully assert sovereignty over lunar areas? Probably not, in view of the recognized essentials for acquiring sovereignty via occupation over virgin territory which cannot be accomplished without human agency. But we may be faced with this question sooner than we think.

QUALITY RATING OF LOCAL GOVERNMENT STAFF

By RAYMOND S. B. KNOWLES, D.P.A., A.C.I.S., A.C.C.S., L.A.M.T.P.I.

Increasing attention is being given, very rightly, to the recruitment of local government officers. But sufficient thought is rarely directed to the need to ensure that the best use is made of manpower already in the service.

True, post-entry training is now much to the fore. The junior entrant of today who wishes to train for promotion and responsibility is given every encouragement, financial and otherwise, to do so.

But those whose task it is to help provide for the educational needs of local government officers know only too well that the majority of those seeking qualification are ill-equipped both by schooling and natural ability for success. Many are wasting their time in local government. They would be well advised to throw their text-books through the window—and go into business. Only thus might they make headway in this world . . . . and, incongruously, maybe acquire riches in the process.

That the lowering of standards for entry into the service was a foolish, short-sighted expedient, was widely acknowledged at the time of its introduction by all except the local authorities themselves. But apportionment of blame is now not so important as means to overcome the difficulties created by a low-grade intake.

There are thus today two strata in the ranks of the rising generation of local government officers. One, predominant in numbers, consists of all those who come in through the open backdoor of the "*lower*" general division. Some of these juniors may be good. Ability and promise sometimes flower late among the best and it may be—who knows?—that there are within this stratum potential chief officers of sterling quality. The other, happily now increasing in number, contains those of the traditionally acceptable scholastic attainment upon whom the future of the service must primarily depend. These are the juniors who, by and large, will seek and gain professional qualifications and if none of them, or very few, are brilliant, it must be acknowledged that upon the pedestrian, often unimaginative, but competent and dependable human beings rests the quality of public service in this country. It takes, indeed, all sorts to make a world; and all manner of young men and women to build the future local government service.

Now, therefore, with quality in short supply, it is more than ever imperative for steps to be taken to ensure the best possible use of the manpower available.

There have always been criticisms levelled against NALGO's educational policy of seeking to create a qualified service. But there can surely be little doubt that rigid insistence upon a minimum standard of qualification at a certain salary level provides some assurance that the higher appointments will go only to those of proved ability. No one, employing authority or staff association, should ever be persuaded by glib argument against paper qualifications and in favour of the inestimable—inestimable, indeed!—value of experience into lowering the present examination barriers. There must never be promotion without qualification. Not even on the pretext that qualified staff are not available.

But if the best use is to be made of the manpower available something far more searching is necessary than present methods of determining fitness for senior office. The total worth of an officer must be assessed. And assessed not only intelligently but in a systematic, expert manner. This calls for personnel management of an entirely different nature from that now practised by local authorities—even the most progressive ones.

The minimum requirement is for establishment officers who are *positively* such. There are a few—not many, one hopes—of the negative variety—mere office-holders who sit sedately awaiting the recommendations of service committees upon which to pronounce blessing or disfavour before the establishment committee.

It is impossible within a few paragraphs to sketch adequately the new conception of establishment work which, it is suggested, must be pursued if there is to be a realistic assessment of staff. Some six years ago a study group of the Royal Institute of Public Administration made a valuable contribution towards better establishment work by publishing a code of practice under the title of *The Elements of Local Government Establishment Work*. It is upon the foundations of that useful work that the future of staff management in local government should be built.

It is not just a matter of ensuring that establishment officers shall be properly trained for their work—although that is vital. The new-style establishment officer has to occupy a unique position.

At present few establishment officers possess the confidence of both employing authority and the staff. The officer is generally regarded as representing solely the employing authority's interests, and in a few cases he conceives it to be his duty to be uncompromisingly anti-staff in attitude. Even sincere if mistaken attempts to be non-partisan by, for example, refusing membership of NALGO, gives further credence to staff disbelief in the establishment officer's impartiality.

Only if establishment officers possess something of the independence and detachment expected of O. & M. staff can they do good work. Why, after all, should not an establishment officer be appointed jointly by the staff and the local authority, paid equally by them, holding an appointment which could not be terminated unilaterally? He would then not only be independent and impartial but could clearly be seen to be such.

And what of the methods of establishment work? There is need for a better understanding throughout the service of merit or quality rating.

Merit rating, quality rating—call it what you will—is the systematic assessment of an officer in terms of his performance and the qualities judged necessary for the carrying out of his work not overlooking—and the writer regards this as important—an assessment also of the officer's long-term future with the local authority.

Clearly this implies something more than the casual methods of appointment and promotion practised at present within local government.

Can anyone in the service who looks critically around him say honestly that the generality of officers are well-equipped by qualifications and personal qualities to perform the work which they are actually doing? Of course not: there are square pegs in round holes everywhere.

Let us face facts, however embarrassing or unpalatable that may be. There are senior officers doing the work of their appointments only with the peculiarly ungrudging support of competent subordinates. There are able officers condemned to the frustration of routine because their abilities are greater than those of men senior to them, and for that very reason are denied promotion.

Evil in many ways though the profit-motive may be the absence of an effective substitute in the public service produces evils of another kind. Where efficiency is necessary for survival there is little room for favouritism or prejudice: the man who can best do the job does it. Unhappily this is not what happens in local government.

Responsibility for merit rating must rest largely upon departmental chief officers. But the establishment officer should be closely associated not only to advise on the best method of merit rating to be employed—the annual report system provided for in the N.J.C.'s scheme of conditions of service is hopelessly inadequate for the purpose and is inappropriate for many classes of staff—but to correct the balance in the case of misplaced kindness or emotional bias of favour or disfavour in the chief officer. There is, for example, a system of merit rating appropriately called that of "forced choice," where the assessment is based upon sets of alternative statements about the efficiency of a person and the assessor is required to indicate which is most and which is least applicable.

But the difficulties of securing improvement in local government work are considerable.

Influential chief officers who might do something about it are often too immersed in the burdens of office to be conscious of the waste and inefficiency of bad staff management, as much as anything because it is difficult to see. Others who may be conscious of it are often reluctant to take action because of their own shortcomings, or because any move on their part would be construed by their colleagues as disloyalty.

But there are difficulties of another kind also. Not all authorities are large enough to warrant the appointment of an establishment officer. Small authorities might introduce merit rating but it would be valueless if nothing could be done to give effect to its findings.

This raises another matter which, sooner or later, local government will have to face. Should local authorities continue to be responsible for the appointment, promotion and dismissal of their own staffs? Surely the growing importance of local government, the vital need for fully qualified staff irrespective of the resources of an individual authority, all point to the desirability of instituting a national local government service. Perhaps, indeed, only in that way can there ever be anything approaching scientific staff management anywhere outside the largest local authorities.

BOOKS AND PAPERS RECEIVED

(The inclusion in this feature of any book or paper received does not preclude its possible subsequent review or notice elsewhere in this journal.)

Prisons I Have Known. By Mary Size. London: George Allen and Unwin, Ruskin House, Museum Street. Price 18*s*. net.

Famous American Crimes. By David Rowan. London: Frederick Muller Ltd., Ludgate House, 110 Fleet Street, E.C.4. Price 16*s*. net.

Federal Probation. Volume 21. September, 1957. Washington, D.C.

How Local Government Works. Honor Wyatt. London: Bodley Head. Price 9*s*. 6*d*. net.

People in Need. Cyril S. Smith. London: George Allen and Unwin, Ltd. Price 21*s*. net.

Texas Law Review. Vol. 36 No. 1. University of Texas School of Law.

Berkshire Probation Report for year ended September 30, 1957.

West Sussex Probation Report for year ended October 31, 1957.

Cyprus. Annual Report on Social Development for the year 1956. Director of Welfare Services. No price stated.

Statement of Rates Levied in Rural Districts of England and Wales for the years 1956–57 and 1957–58. Rural District Councils Association. No price stated.

Road Safety Bulletin. Derbyshire constabulary. No price stated.

NEW STATUTORY INSTRUMENTS

1. **COAL INDUSTRY.** The Coal Mining (Subsidence) (Assessment of Disablement) Regulations, 1957.

These regulations prescribe, for the purposes of s. 12 (3) of the Coal-Mining (Subsidence) Act, 1957, the manner in which disablement is to be assessed in a case where a person is suffering from loss of physical or mental faculty which is likely to be permanent as the result of an injury caused by the happening of subsidence damage.

Certain principles of assessment are defined, and degrees of disablement in respect of particular losses of faculty are prescribed by reference to the Schedule.

Came into operation December 31, 1957. 1957. No. 2199.

2. **INDIA.** The Government of India (Family Pension Funds) (Amendment) Order, 1957.

Under the terms of the Government of India (Family Pension Funds) Order, 1936, the balances of four Funds established to provide pensions for the widows and children of certain civil and military officers of the Indian Services were transferred to Commissioners in the United Kingdom. The Commissioners' powers of investment were laid down in para. 12 of the order of 1936 and have been extended by subsequent amendments. The present order substitutes two new paragraphs for para. 12 of the order of 1936, as amended, and its principal purpose is to extend and consolidate the Commissioners' powers of investment, including therein power, subject to conditions laid down in the order, to invest in industrial concerns.

The order of 1936 empowered the Secretary of State to appoint Commissioners for periods of four years. The present order amends that provision so as to enable appointments for periods of less than four years to be made.

Made December 20, 1957. 1957. No. 2223.

3. **JUDICIAL COMMITTEE.** Procedure. The Judicial Rules, 1957.

These rules revoke and replace the Judicial Committee Rules, 1925, as amended, with certain modifications. The most important changes are as follows:

1. Provision is made for the Records and Cases to be duplicated instead of printed.

2. At present a litigant cannot proceed in forma pauperis unless he proves he is not worth £25 in the world. £100 is now substituted for £25.

3. (a) The Council Office fees, other than the taxing fee, are increased by 25 per cent.

(b) The taxing fee (which at present is at the rate of 2½ per cent. up to £300 and thereafter 1 per cent.) is to be at the rate of 2½ per cent. throughout.

Coming into operation February 1, 1958. 1957. No. 2224.

4. **ELECTRICITY.** The Electricity (Pension) (Amendment) Regulations, 1957.

These regulations amend the Electricity (Pension Scheme) Regulations, 1948, and, where appropriate, the Electricity (Pension Rights) Regulations, 1948, so as to include the Electricity Council as an Electricity Board for the purposes of those Regulations.

Came into operation January 1, 1958. 1957. No. 2226.

5. **ELECTRICITY.** The Electricity (Publication of Applications) Regulations, 1957.

These regulations, made under s. 34 of the Electricity Act, 1957, set out the requirements for the publicity to be given to applications to the Minister of Power for his consent to the construction or extension of a generating station under s. 2 of the Electric Lighting Act, 1909, and to the erection of an overhead high voltage electric line under s. 10 (b) of the Schedule to the Electric Lighting (Clauses) Act, 1899.

Came into operation January 1, 1958. 1957. No. 2227.

6. **ELECTRICITY.** The Electricity (Stock) Regulations, 1957.

These regulations replace the Electricity (Stock) Regulations, 1948. They make provision for the issue of British Electricity Stock by the Electricity Council under s. 16 of the Electricity Act, 1957, and for the dealing with, transfer and redemption of such stock and British Electricity Stock issued by the Central Electricity Authority under s. 40 of the Electricity Act, 1947.

Came into operation January 1, 1958. 1957. No. 2228.

7. **SOLICITORS.** The Solicitors (Disciplinary Proceedings) Rules, 1957.

These rules revoke and re-enact with minor amendments the Solicitors (Disciplinary Proceedings) Rules, 1942, as amended.

The rules regulate procedure for the making, hearing and determination of applications or complaints under the Solicitors Act, 1957, to the Disciplinary Committee constituted under that Act.

References in the rules and in the annexed forms to statutory provisions have been altered to accord with the consolidation of the Solicitors Acts, 1932 to 1956, made in the Solicitors Act, 1957.

Came into operation December 31, 1957. 1957. No. 2240.

8. **NATIONAL INSURANCE.** The National Insurance (Mariners) Amendment Regulations, 1957.

These regulations, which are made in consequence of the National Insurance (No. 2) Act, 1957, amend the National Insurance (Mariners) Regulations, 1948. They reduce from three-fifths to one-half the proportion of the ordinary employer's contributions which is payable in respect of mariners employed as masters or members of crews who neither are domiciled nor have a place of residence in the United Kingdom. They also increase the reduction, which was authorized by those regulations, in the weekly rate of employer's contributions payable in respect of mariners employed as masters or members of crews of foreign-going ships.

Coming into operation February 3, 1958. 1957. No. 2243.

9. **NATIONAL INSURANCE (INDUSTRIAL INJURIES).** The National Insurance (Industrial Injuries) (Mariners) Amendment Regulations, 1957.

These regulations further modify the provisions of the National Insurance (Industrial Injuries) Act, 1946, in relation to mariners by reducing the amount of contribution payable by an employer in respect of masters or members of the crew of ships other than home trade ships by 1d. in the case of persons over the age of 18 and by one ½d. in the case of persons under that age.

Coming into operation February 3, 1958. 1957. No. 2244.

10. **CIVIL AVIATION.** The Air Navigation (General) (Third Amendment) Regulations, 1957.

These regulations amend, with effect from the dates specified, requirements of the Air Navigation (General) Regulations, 1954, as amended, relating to the personnel to be carried in aircraft registered in the United Kingdom; and certain items of safety equipment to be carried in public transport flying machines so registered; to the instruction to be given to passengers in such aircraft with regard to the use of safety equipment; and to the extent to which qualification as a Service pilot may qualify a person for exemption from requirements pertaining to the grant or extension of a civil pilot's licence. They also impose a new requirement that the personnel of public transport aircraft registered in the United Kingdom shall include, when the aircraft is carrying 20 passengers or more, a steward or stewardess to perform duties in the interest of the safety of passengers.

Came into operation for the purposes of part I—January 8, 1958; coming into operation for the purposes of part II—May 1, 1958. 1957. No. 2249.

11. **ELECTRICITY.** The Electricity (Consultative Council) (Areas) (Amendment) Regulations, 1958.

The Electricity (Consultative Council) (Areas) Regulations, 1948, regulate the chairmanship, terms of membership and proceedings of consultative councils in the areas for which Area Boards were established under the Electricity Act, 1947.

These regulations amend those regulations so as to give effect to the provisions of s. 5 and part I of sch. 1 and s. 14 of the Electricity Act, 1957, and include an additional ground for vacation of office by the chairman of a council.

Came into operation January 8, 1958. 1958. No. 1.

12. **CUSTOMS AND EXCISE.** Anti-Dumping and Countervailing Duties. The Anti-Dumping (No. 1) Order, 1958.

This order imposes a customs duty of 4s. per lb. on polymethylsiloxane fluids (commonly known as silicone fluids) originating in France, being products of the Société des Usines Chimiques Rhône-Poulenc, to offset the dumping of these goods in the United Kingdom.

Came into operation January 7, 1958. 1958. No. 2.

13. **AGRICULTURE.** Hill Farming. The Heather and Grass Burning (Northumberland and Durham) (Amendment) Regulations, 1958.

By virtue of the Heather and Grass Burning (England and Wales) Regulations, 1949 (S.I. 1949/386), made under s. 20 of the Hill Farming Act, 1946, the burning of heather and grass in England and Wales between March 31 and November 1 in any year without the issue of a licence is prohibited.

These regulations postpone the commencement of the close period for the counties of Northumberland and Durham to April 15 in any year.

Came into operation on January 9, 1958. 1958. No. 4.

14. **WAGES COUNCILS.** The Wages Regulation (Paper Bag) Order, 1958.

This order, which has effect from January 17, 1958, sets out the statutory minimum remuneration payable in substitution for that fixed by the Paper Bag Wages Council (Great Britain) Wages Regulation Order, 1954 (Order P. (56)), as amended by the Wages Regulation (Paper Bag) (Amendment) Order, 1957 (Order P. 64)), which Orders are revoked.

New provisions are printed in italics.

Came into operation January 17, 1958. 1958. No. 5.

15. **CUSTOMS AND EXCISE.** The Import Duties (Drawback) (No. 1) Order, 1958.

This order reduces from 8s. 9d. to 6s. 6d. per cwt. the rate of drawback allowable in respect of Customs duty paid on solid insoluble quebracho extract used in the manufacture of certain exported soluble quebracho extracts or blends of soluble quebracho extract with myrobalan extract.

Came into operation January 14, 1958. 1958. No. 16.

16. **PUBLIC HEALTH, ENGLAND AND WALES.** Notification of Endemic Disease. The Acute Rheumatism (Amendment) Regulations, 1958.

These regulations extend indefinitely the period of operation of the Acute Rheumatism Regulations, 1953, which require the notification of cases of acute rheumatism in persons under 16 years of age occurring in certain specified parts of England.

Came into operation January 14, 1958. 1958. No. 17.

17. **ARMY.** The Army Acts, 1955 (Continuation) Order, 1957. Made December 20, 1957. 1957. No. 2221.

18. **ROYAL AIR FORCE.** The Air Force Acts, 1955 (Continuation) Order, 1957. Made December 20, 1957. 1957. No. 2222.

PERSONALIA

APPOINTMENTS

Mr. Edward Steel, chancellor of the diocese of Liverpool, has been appointed a county court Judge for the West Riding Circuit, covering Bradford, Dewsbury, Huddersfield, Halifax, Keighley, Wakefield, Skipton and Otley.

Col. F. M. Slater has been appointed clerk of Willenhall, Staffs., magistrates, succeeding his brother, Brigadier Percival Slater. There has been a Slater as magistrates' clerk at Willenhall since 1872. Brigadier Slater took the appointment following his father, who was preceded by Brigadier Slater's grandfather. Col. F. M. Slater is deputy lord lieutenant of Staffordshire.

Mr. A. C. R. Bach has been appointed deputy town clerk of Hammersmith metropolitan borough council, with effect from February 1, next. Mr. Bach entered local government service with the St. Marylebone metropolitan borough council in 1924. He subsequently obtained appointment with the Hammersmith borough council as junior clerk in the town clerk's department, and was successively appointed assistant committee clerk, committee clerk and legal clerk. Mr. Bach was articled in 1947 to Mr. W. H. Warhurst, LL.B., the then town clerk of Hammersmith, and later to Mr. Horace Slim, who succeeded Mr. Warhurst as town clerk. Mr. Bach was admitted in June, 1950, and appointed as assistant solicitor and in January, 1952, he was appointed chief assistant solicitor to the council.

Mr. N. J. Heaney, LL.B. (Hons.), town clerk of Lewes, Sussex, has been appointed clerk and solicitor to Battle, Sussex, rural district council, to succeed Mr. C. T. Chevallier, who is retiring. Mr. Heaney will relinquish his post at Lewes on March 31, next, his new appointment dating from the following day. He was appointed in August, 1954, and took up his duties on October 1. At the time of his appointment he was deputy clerk of Bognor Regis urban district council, a position he had held since 1951. On being demobilized from the Army in 1946, he re-joined St. Pancras metropolitan borough council in the office of the town clerk, to whom he was articled. He read law at London University, where he took his degree. Mr. Heaney was admitted in January, 1951.

Mr. W. C. Lawson, M.B.E., has been appointed clerk to the justices for Hatherleigh, Lifton, Plympton and Tavistock, Devonshire. At Hatherleigh, Mr. Lawson succeeded Mr. G. J. Atkinson. Mr. Atkinson succeeded the late Mr. H. C. Brown as magistrates' clerk in 1938. At Plympton, Mr. Lawson succeeded Mr. H. E. Turner.

Mr. H. W. Jones, previously with the county borough of Grimsby, has been appointed deputy town clerk of the borough of Yeovil, Somerset, as from January 27, 1958. Mr. Jones previously held the post of senior assistant at Grimsby. Mr. W. M. Bennett, the former deputy town clerk, has accepted the appointment as clerk of Gipping, East Suffolk, rural district council. Mr. Bennett had been deputy town clerk of Yeovil, since February 28, 1955.

Mr. E. Gilbert Sharp, LL.B., assistant solicitor to the Leicestershire county council, has been appointed clerk to Skipton, Yorks., rural district council as from April 1, 1958. He succeeds Mr. S. C. Harwood, who will be retiring on March 31, next, after completing 40 years' service in local government. Mr. Harwood was appointed to his present post in 1939 and was formerly deputy town clerk of Kettering. Previous appointments were with Reigate, Surrey, and Scarborough, Yorks., corporations.

Mr. Kenneth G. Haddock, LL.B., has been appointed assistant solicitor to Hinckley, Leics., urban district council, as from December 30, last.

Mr. E. H. Whittaker, LL.B. (Lond.), A.M. Inst. T., has been appointed assistant solicitor to Widnes, Cheshire, borough council. Mr. Whittaker was formerly chief clerk in the town clerk's department of the borough of Rawtenstall, Lancs. He commenced service with Rawtenstall as junior clerk in May, 1938. He served in the R.A.F. from September, 1941, to August, 1946. Mr. N. H. Wilson, the former occupant of the position, has been promoted to the position of deputy town clerk as from January 1, 1958.

Mr. John Willison, chief constable of the Berwick, Roxburgh and Selkirk constabulary since 1952, has been appointed chief constable of Worcestershire. He has succeeded Captain J. E. Lloyd-Williams who has retired after 26 years as chief constable. Mr. Willison (43) joined the City of London Police in 1933. For a time he was superintendent-instructor at Ryton-on-Dunsmore Police College, Warwickshire.

Chief Superintendent Thomas Lockley, of Staffordshire constabulary, has been appointed deputy commandant of the police college at Ryton-on-Dunsmore, Warwickshire, and Bramshill, Hampshire, in succession to Mr. T. E. Mahir. Mr. Mahir has returned to the Metropolitan police. Mr. Lockley joined the Staffordshire constabulary in 1924 and was placed in charge of the Criminal Investigation Department in 1946. In 1955 he was seconded to the Cyprus Constabulary, taking charge of the Criminal Investigation Department and serving as officer-in-charge of the United Kingdom unit with the rank of assistant chief constable. He returned to England recently on completion of his tour of duty. The appointment is subject to the agreement of Staffordshire police authority to Mr. Lockley's release.

The Board of Trade announce the following appointments:

Mr. Ronald William Francis Pagan to be official receiver for the bankruptcy district of the county courts of Liverpool, Bangor, Birkenhead, Chester, Portmadoc and Blaenau Festiniog, Warrington, Wigan and Wrexham, with effect from November 29, 1957.

Mr. Thomas Arthur Tuck to be official receiver for the bankruptcy district of the county courts of Canterbury, Rochester and Maidstone, with effect from November 29, 1957.

Mr. Philip Anthony Lawrence to be assistant official receiver for the bankruptcy district of the county courts of Liverpool, Bangor, Birkenhead, Chester, Portmadoc and Blaenau Festiniog, Warrington, Wigan and Wrexham, with effect from January 1, 1958.

Mr. Kenneth Matthewson to be an assistant official receiver for the bankruptcy district of the county courts of Bristol, Bath, Bridgwater, Cheltenham, Frome, Gloucester, Swindon and Wells and also for the bankruptcy district of the county courts of Exeter, Barnstaple and Taunton, with effect from January 1, 1958.

Mr. John Francis O'Reilly to be an assistant official receiver for the bankruptcy district of the county courts of Birmingham, Coventry, Dudley, Hereford, Kidderminster, Leominster, Stourbridge, Walsall, Warwick, West Bromwich, Wolverhampton and Worcester, with effect from January 6, 1958.

Mr. C. A. C. Chesterman has been appointed president of The Rating and Valuation Association for 1957–8. Mr. Chesterman has been a member of the Council of the Association for many years and was a past-president of the South-Eastern branch of the Association.

Mr. Gordon Smith Officer has been appointed second assistant to the clerk to the Blaydon and Jarrow, Co. Durham, justices. Mr. Officer is 28 years of age. He worked as an assistant in the office of the clerk to the Bradford city justices from 1952 to 1956, when he took up his present appointment as second assistant to the clerk to the justices for the petty sessional divisions of Yeovil and Crewkerne.

Mr. A. C. T. Frye, a probation officer at Stratford, has been appointed a probation officer in the Middlesex combined probation area and took up his duties on January 1, last.

Mr. Cecil Laverick has been appointed second assistant to the clerk to the justices of Hartlepool and Castle Eden petty sessional division. Mr. Laverick is 27 years of age and at present is an assistant in the office of the clerk to the Sunderland county borough justices, where he has been employed since 1954. Previous to this, he was an internal audit clerk in the Sunderland borough treasurer's office.

Superintendent T. Beale has been appointed deputy chief constable of Plymouth, to succeed Chief Superintendent K. Wherly, *see* our note at 121 J.P.N. 848.

Mr. S. Ratcliffe has been appointed a probation officer in the Surrey combined probation area. Mr. Ratcliffe was appointed a probation officer in February, 1952, and has served in the London probation service at Stamford House juvenile court and then at West London magistrates' court. He will take up his appointment on February 3, next.

Chief Superintendent Ambrose Swithin Williamson has been appointed to succeed Mr. F. W. Hicks as assistant chief constable of Bristol. He took up his appointment on January 1, last. Mr. Williamson is 56 years of age. He joined Bristol constabulary in October, 1920, and served first as a constable with "A" division. Then, after seven years in "B" division, Bedminster, as inspector and superintendent, he returned to "A" division and the administration staff in 1941. In that year he was appointed chief superintendent. He was awarded the M.B.E. four years ago. He holds the Coronation Medal, the Defence Medal, and the Police Long Service and Good Conduct Medal. Mr. Hicks leaves the force after 44 years' service. He started as patrol constable in 1913 and was promoted sergeant in 1923. He became an inspector in 1926 and superintendent two years later. He took over his present post in 1941. Succeeding Mr. Williamson as chief superintendent is Superintendent Albert George Shipley Harris, who has been in charge of the road traffic department since 1955. Mr. Harris, who is 47, joined the force in 1932 and has spent some time with the C.I.D.

Mr. Richard Williams has been appointed additional male probation officer for the Lancashire (No. 7) combined probation area. Mr. Williams has, since 1952, been a probation officer in the city of Salford.

Mr. Edward Burge has been appointed male probation officer to serve the Rugby and Kenilworth petty sessional divisions in the Warwickshire combined probation area. Mr. Burge took up his duties on January 1, last.

Mr. A. Rogers, formerly a Home Office trainee, has been appointed a probation officer in the Middlesex area and took up his duties on January 6, last.

Mr. Sidney Bailey has taken up his duties as probation officer in Oxfordshire, where he will relieve Mr. Harry Turner at Bicester and Mr. R. E. Leeves at Woodstock. He will be one of the officers attached to the courts in Oxford.

Mr. K. F. Easton, a Home Office trainee, has been appointed a probation officer in the Middlesex combined probation area and took up his duties on January 1, last.

RETIREMENTS

Mr. E. C. Fortescue, who has for 32 years been clerk to Banbury, Oxon., borough magistrates, has retired. He will continue to be coroner to North Oxfordshire and senior partner in the Banbury firm of solicitors, Messrs, Stockton, Sons and Fortescue.

Mr. C. G. Peyton, LL.B., retired on December 31, last, from his office as clerk to the Lord Mayor at the Mansion House Justice Room in the City of London. Mr. Peyton began his service in magistrates' courts in October, 1921, at Old Street police court, moving in April, 1927, to the Marlborough Street court. He went to the City of London in March, 1931, and, since the retirement of Mr. Wallace Thoday, LL.B., on January 1, 1947, he has been clerk to the Lord Mayor, the senior post at the City Justice Rooms. He is succeeded by Mr. C. W. Burman, the assistant clerk since 1947, who also began his magisterial service in the Metropolitan police courts. Consequent upon this appointment, the duties of clerk to the licensing justices of the City will be carried out by Mr. A. G. Chandler, the chief clerk at the Guildhall Justice Room, and Mr. J. H. Tratt is transferred assistant clerk from the Guildhall to the Mansion House. The vacancy at the Guildhall is filled by the appointment of Mr. F. A. Treeby, who has been deputy clerk to the justices at Haywards Heath since 1948.

Mr. B. Coupe, chief administrative assistant in the town clerk's department of Rochdale corporation, is retiring on January 21, next. Mr. Coupe will have completed 50 years' service with the corporation. He is 65 years of age. Mr. Coupe started in the town clerk's department as a junior clerk at the end of 1907 and became correspondence clerk in 1910. Four years later he was appointed a committee clerk, and in 1919 he succeeded to the position of chief clerk, a post which was re-designated chief administrative assistant 12 years ago, so that for nearly 40 years Mr. Coupe has held an executive position. He has acted as committee clerk to every corporation committee as occasion required. He has attended every council meeting since 1917 and has missed only two meetings of the general purposes committee—on both occasions when the members were visiting outside towns on official business.

OBITUARY

Mr. Eric Neve, Q.C., recorder of Canterbury from 1938 to 1952, has died at the age of 70. Mr. Neve was called to the bar by the Middle Temple in 1921 and was subsequently elected a bencher. He joined the South-Eastern Circuit and Sussex sessions and in 1938 he was appointed recorder of Canterbury. Mr. Neve took silk in 1939. In 1946 he was appointed chairman of Middlesex quarter sessions and soon after he was appointed chairman of East Sussex quarter sessions. Mr. Neve was also assistant chairman of West Sussex quarter sessions. Ill-health forced him to retire from his private practice in 1951 and the following year he retired from the recordership of Canterbury and as assistant chairman of West Sussex quarter sessions. He retired from the Middlesex sessions in 1956 and last year he relinquished his position as chairman of the East Sussex sessions. Mr. Neve appeared with Sir Hartley Shawcross in the trial of John George Haigh, the "acid-bath" murderer, with his son, Mr. David Neve, as junior counsel, among the defence counsel opposing him.

Mr. Alfred Wickham, who became assistant town clerk of West Bromwich in 1897, has died. He succeeded the late Mr. Alfred Caddick as town clerk in 1911, retiring in 1937. He was made an honorary Freeman of the town. He was appointed clerk of the peace to West Bromwich quarter sessions in 1914.

Mr. Isaac F. Harrison, whose death has occurred at the age of 61 years, had been clerk to Ennerdale, Cumbs., rural district council since 1941. He entered local government service with his own parish council. When the Whitehaven rural council and other local authorities in West Cumberland were merged in 1934 into the Ennerdale rural council, he was deputy to the clerk of the Whitehaven rural council, Mr. J. R. Henley. Both then served in the same offices for the new authority and Mr. Harrison continued as deputy until 1941 when the then clerk, Mr. J. R. Cockfield, became town clerk of Workington.

Mr. Frank Reeves and Mr. Arthur J. Reeves, two Carlisle brothers, died within the space of a month during December, last. Both had been town clerks. Mr. Frank Reeves, 62 years of age, was formerly town clerk of King's Lynn, Norfolk. Mr. Arthur J. Reeves was 68 years of age and left Carlisle for Yarmouth in 1924 as deputy town clerk and later went to Peterborough, where he was town clerk for 20 years. He retired 20 years ago. Both the brothers had served under the late Mr. A. H. Collingwood, onetime town clerk of Carlisle.

Mr. Frederick Robert Scott, who for a time was acting clerk to Minehead, Somt., urban district council, died in December, last at the age of 69. Mr. Scott was employed by a Minehead firm of solicitors for close on 50 years and at the time of his death was its managing clerk.

Mr. Charles Robert Thurston died in November, last. He was deputy to Mr. Ernest W. Pettifer, clerk to the justices of Lower Strafforth and Tickhill petty sessional division, West Riding of Yorkshire. Mr. Thurston joined the Doncaster office in 1914, at the age of 14, and his 43 years in the office saw him ultimately become deputy clerk.

WAR OF WORDS

Every poison has its antidote, and every offensive weapon represents a challenge to man's inventive ingenuity to produce an adequate defence. Chain-mail was the answer to sword and dagger; helmet and breastplate were, for a long time, proof against arrows discharged with fierce velocity from the crossbow. In our day the lurking submarine has been met with the depth-charge; the bombing aeroplane is matched by the jet-fighter, and both look like being superseded by the ballistic missile, unmanned and guided by remote control. Even against this ultimate weapon some shield is perhaps this very moment being forged; the resources of applied science are, apparently, limitless when large-scale destruction is involved.

So it is also with the weapons of psychological warfare. The heralds of classical times shouted their proclamations to the opposing army, across no-man's-land; among the Greeks, Stentor, the Iliad tells us, possessed a voice louder than that of 50 ordinary men. The war-cries of the host of Genghiz Khan struck terror into their enemies long before its dreaded cavalry swooped down to cut their force to pieces. The invention of printing gave scope for further development on an enormous scale. The broadsheet, the manifesto and, eventually, the newspaper were harnessed to the uses of war. So was the banknote; there is a vivid picture in Tolstoy's *War and Peace* of Napoleon's Grande Armée crossing the frontiers of Russia, in the summer of 1812, with tens of thousands of revolutionary leaflets, and tens of millions of forged paper roubles. Such weapons have been used again quite recently, leaflets and false money alike being dropped from such aircraft as could be spared from more lethal missions.

Undoubtedly, however, the invention of radio-telephony has revolutionized this department of warfare and the uneasy peace in which the world has lived since 1945. Day and night, back and forth, north and south and east and west, the waves leap through the aether, to break in a huge tide of propaganda upon shores halfway across the world. The Tower of Babel never knew such a confusion of tongues, such a jumble of languages and dialects, such a hotch-potch of concepts and ideas. Prayers, entreaties, threats; sweet reasonableness, argument and abuse; politics, history, economics, logistics; objective understatement, flamboyant hyperbole; arrogance and humility; appeals to patriotism, religion, race-consciousness and cultural tradition—all these are pressed into the service of this new Stentor of the brazen lungs.

Mercifully, no nation is defenceless against this sort of thing. The individual listener can still (at the time of writing) cut out the nuisance by the flick of a switch, or (equally effective method) let it run like a tap all day, until it is just a background noise that he no longer notices or hears. Despotic, authoritarian and patriarchal government departments can, and do, employ the device known as "jamming" to prevent misguided curiosity from eavesdropping on what may corrupt loyalty or tired acquiescence. Such methods are still justified by arguments similar to those which enforced obscurantism and bigotry upon recalcitrant populations in the sixteenth and seventeenth centuries. And, in some parts of the world, clandestine stations are at work, broadcasting the seeds of discontent, doubt, or hope, for the most part on stony ground, but here and there dropping them on fertile soil—seeds that may one day sprout and burgeon and flourish in an unexpected crop.

A recent article in *The Times* has described this medley of discordant voices in the geographical area which is beginning to be known as the Muddle East. Those political movements in that region which are named as libertarian, subversive or rebellious (according to the taste and fancy of the powers that be) all have their radio programmes—the self-styled Voices of Truth, Reason, Freedom, or Reform, designated by their opponents in somewhat less idealistic terms. Whichever side they are on, their organizers seem to have one common spur—the same as that with which Caliban pricked the bubble of Prospero's inflated ego—his smug, self-satisfied, self-imposed educative mission:

> "You taught me language; and my profit on't
> Is—I know how to curse. The red plague rid you
> For learning me your language!"

Every mention, says *The Times*, of the Head of Government evokes a parenthetical "God's curse be upon you!" and official transcripts of the programmes are "full of 'unprintables' in every other line."

Abuse, it is said, is no argument: but it is a great relief to the feelings. In this country habits have varied through the centuries; the robust usages of Tudor days were watered down (if that be the correct expression) in the politer Georgian and Regency times to the use of initials, asterisks, dashes and dots. Even *Wuthering Heights*, that astonishingly passionate upsurge in the imagination of a girl from a country cottage in wildest Yorkshire, restrains itself to such expletives as "by G—," "d— you," and so forth, leaving little enough unsaid but preserving the proprieties at least on paper. The Levantine tradition is less inhibited, if we can judge by the translations of *The Thousand and One Nights* and from such picturesque orientalisms as James Elroy Flecker permitted himself in the pages of *Hassan*. This is the diplomatic language in which the Caliph addresses himself to his *Chef de cabinet*, the Vizier Jafar:

> "Thou dog! Thou dirt! Thou dunghill! Thou dustheap!"

Even the poet and man of letters, Ishak, is unrestrained in his choice of expletives for the ears of the Chief of Police:

> "Thou beastly, blood-drinking brute and bloated bully! Take off thy stable-reeking hands!"

And the man of action, not to be outdone in politeness, responds in kind—

> "What right have you to stop my man, you bastard son of a quill-bearing barn-fowl?"

With such examples before them, it is surprising that the accredited organs of ruling governments should be so squeamish in these rude days. But there it is; and we can only hope that the change presages some permanent improvement in the tone of diplomatic *aides-mémoire* and international intercourse on the widest scale.

A.L.P.

NOTICES

The next court of quarter sessions for the city of Hereford will be held on Friday, January 31, 1958, at the Shirehall, Hereford, commencing at 10.30 *a.m.* Instructions for indictments are to be sent to the office of the clerk of the peace, Town Hall, Hereford, on or before Monday, January 27, 1958.

The next court of quarter sessions for the borough of Andover will be held on Tuesday, February 4, 1958, at the Guildhall, Andover, commencing at 10.45 *a.m.*

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Children and Young Persons Act, 1933—*Employment of child.*

A complaint has been received by the local education authority to the effect that an adult, accompanied by a girl aged nine, called at a house in this city, and upon the occupier answering the door the girl commenced reading passages from the Bible and then offered religious literature for sale at a stated price.

The adult describes himself as a minister of religion of a known religious sect, and it is understood that he is employed full time in that capacity. It appears that the girl does this work voluntarily and without any payment. She is also known to have visited a house on another occasion, unaccompanied, and to have sold religious literature.

I have referred to ss. 18 (as amended) and 30 of the Children and Young Persons Act, 1933, and it seems possible to argue that the word "employed" as used in s. 18, except so far as its meaning is extended by s. 30. means "employed for reward." On the other hand one may take the view that the word "employed" in this context should be given the wider meaning of having one's time or attention occupied in doing something.

I shall be glad of your opinion as to whether, in the circumstances mentioned, the girl was employed within the meaning of ss. 18 and 30 of the Act. RISON.

Answer.

In our opinion the adult is carrying on for profit the occupation of selling religious literature, and the child is deemed to be employed if she assists in this occupation, as she appears to do.

2.—Criminal Law—*Breaking and entering caravan—What offence committed ?*

I shall be grateful if you will kindly let me have your opinion as to whether a criminal offence, as distinct from one of wilful damage, is disclosed in the following circumstances:—

It was recently discovered in this division that two unoccupied caravans, in the same ownership, standing side by side and connected to one another by means of a covered communicating passage, had been damaged. The damage was confined to the door of the communicating passage and to a glass panel in the door of one of the caravans.

The matter was reported to the police whose inquiries led them to a certain man. On being interviewed, this man, after an initial denial, admitted that he had broken the glass panel in the caravan door but insisted that the door of the communicating passage was already broken, probably by the wind, when he chanced to pass by.

In a statement made under caution, he said that he had entered through the open communicating door, then broke the glass panel in the caravan door and released the Yale lock by inserting his hand through the broken panel. The statement, in his own words, continues: "I then entered this caravan. I looked through cupboards and drawers, but did not fancy anything worth taking from there, and then left. . . . I am quite positive that I did not take anything from there."

The only articles capable of being stolen from the caravan were bed coverings and toilet requisites.

The owner confirms that nothing had been stolen. HARNA.

Answer.

A similar question is dealt with at 93 J.P.N. 107, where we gave it as our opinion that a caravan could be a "dwelling-house" for the purposes of the Larceny Act, 1916. In the present case, the fact that there are two caravans joined by a communicating passage implies a certain immovability, and we think that it might be successfully argued that the caravans, together with the communicating passage, formed a "dwelling-house." If this were so, the opening of the inner door would constitute a "breaking," and if, as we assume, the owner had the intention of returning at some time, the man could be prosecuted for burglary or housebreaking, depending on the time of day he entered.

3.—Gaming—*Small Lotteries and Gaming Act, 1956—Name cards with varying prices.*

Societies registered under the Act have promoted lotteries by means of what are called "name cards." In one case the card bears the names of 48 "football clubs." In the other the card bears the names of 48 "nick-names." Below the name of each football club or nick-name as the case may be is printed a figure varying between the figure two and the figure six, except below the names in four cases where the word "free" appears. All the figures and the words "free" are obscured by pasted slips of paper. On the top left-hand corner of the card is a circle bearing the name of one of the football clubs or nick-names, and in this case the name is obscured by a piece of paper fastened over the circle, and below the circle is printed "1*st* Prize 5*s*." On the opposite corner there is a similar circle bearing another obscured name and is marked "2*nd* Prize 2*s*. 6*d*."

The card states "Highest Contribution, 6*d*.; Lowest Free." The obscured figures are the number of pence by way of contribution each contributor makes but knows only by chance on selecting a name on the card after the covering paper is removed. The aggregate of the contributions thus obtained is 15*s*., from which there is a profit of 7*s*. 6*d*., after paying the 5*s*. and 2*s*. 6*d*. prizes.

The card is copyright and states "It is distinctly understood that all contributions are accepted as voluntary donations to the above to which the nett proceeds will be given."

The conditions in s. 1 (2) of the Act require the price of every ticket or chance to be the same and to be stated on the ticket. In this case the prices vary between 2*d*. and 6*d*. and are obscured on the ticket. They also require that every ticket shall specify the date on which the draw, etc., will take place.

It appears therefore that such a "name card" lottery does not comply with the Act. Your opinion thereon is requested. HERIC.

Answer.

We agree with our correspondent that the cards in question do not comply with the conditions set forth in s. 1 (2) of the Act.

4.—Landlord and Tenant—*Certificate of disrepair—Boundary fence or wall.*

In connexion with a tenancy controlled under the Rent Act, 1957, the tenant has applied to the local authority for a certificate of disrepair for his dwelling, and specifies as one of the items of disrepair that "the boundary fence needs renewing." As a matter of fact, the 150 *ft*. chestnut boundary fence between the property and the adjoining premises is defective in its whole length, but the local authority have no evidence to show whether it is owned by the landlord or by the owner of the adjoining property. The Act defines dwelling as "the aggregate of the premises comprised in the tenancy," but while inhibiting the local authority from inquiring into obligations between landlord and tenant is silent as to obligations between landlord and neighbour.

I should welcome your advice on the following points:—

1. May the local authority:

(*a*) on the implied allegation of the tenant assume that the repair of the fence is the landlord's responsibility ?

(*b*) determine that the dwelling, by reason of the state of the fence, is in disrepair ?

2. If the local authority are able to and do specify the fence as a defect in the certificate of repair must the landlord, before cancellation of the certificate, substantially restore the fence to its original state or may he substitute (say) a post and wire fence ? DON.

Answer.

It may be convenient to answer these queries in reverse order. If a certificate of disrepair was served by reason of the condition of a boundary fence or wall, the landlord could in our opinion substitute some other form of fence, provided this was effective for the purpose.

Upon the underlying questions, we do not suggest that a certificate of disrepair could not be served by reason of a defective boundary fence where the defect involved danger or (perhaps) serious discomfort. For example, we have lately advised (though not in relation to certificates of disrepair) upon a case where a house had a small back yard bounded by a wall at the top of a bank, below which was a running stream. Erosion had caused the wall to collapse into the stream. If a certificate of disrepair were applied for in such a case, it could in our opinion properly be granted. So also if adjoining premises were grazing land, from which animals would come through and do damage when the fence broke down. Looking at s. 62 of the Law of Property Act, 1925, which deals with the content of a lease, and the remarks of Lopes, L.J., in *Proudfoot* v. *Hart* (1890)

55 J.P. 20, about the meaning of the word "repair," we do not think that in this sort of case the local authority need concern themselves with the ownership of and civil liability (if any) for the wall or fence. The premises have been let with the benefit of the existing fence, be this the landlord's property or not. If it ceases to be of use because of disrepair, the landlord, if he has no right to touch the existing fence, can put a new one on his own side of the boundary, and can properly be made to do so in such cases as we have last mentioned.

In the ordinary case, however, in which premises are bounded by a chestnut fence, where there is no danger from one side or the other, we have the greatest doubt whether a certificate of disrepair can properly be granted. In the case before us, as we suppose the facts to be, we think its issue would be an abuse of the purpose of the enactment.

5.—Magistrates—*Evidence—Defendant electing to give evidence—Refusal to answer a proper question—Committed under Magistrates' Courts Act, 1952, s. 77 (4).*

(*a*) A defendant being tried summarily; (*b*) a defendant on the taking of depositions; (*c*) the respondent to a complaint, elects to give evidence. In cross-examination he is asked a proper question to which objection is taken but the objection being overruled he refuses to answer.

Is the power of committal for seven days given by s. 77 (4) Magistrates' Courts Act, 1952, applicable in each case?

If following commitment, the witness is brought before the court again and still refuses to answer the same question, can he be re-committed and the process repeated until an answer is given, or does one commitment exhaust the power of the court?

MUFFO.

Answer.

We think that in each case the defendant, having elected to give evidence, is "a person attending before a magistrates' court" within the meaning of s. 77 (4) and that he can be committed as therein provided. We think that one such committal exhausts the court's powers under the subsection.

Although the power to commit exists its exercise is a matter for the discretion of the court and it may well be that the better course, in the case of a defendant, is to explain to him that he has elected to give evidence and that if he wishes the court to attach any importance to his evidence he must answer all proper questions put to him. For a case in which the High Court had to consider the matter of a defendant refusing to answer questions *see R.* v. *Minihave* (1921) 16 Cr. App. Rep. 38. We think that the committal of a defendant would be an extreme course difficult to justify.

6.—Nuisance—*Village pond—Silting from surface water.*

The surface water sewer serving a small village discharges into the pond near the village green and there is an outlet from the pond into a culvert under the adjacent highway. The pond is silting up and generally is in an unsatisfactory state. Whose liability is it to maintain the pond, and in so far as on one side the pond abuts on the public highway, has the highway authority any liability in respect of the pond? In view of the fact that the pond has an inlet and an outlet does it form part of a watercourse?

PETCHOR.

Answer.

The best practical step seems to be to deal with this under s. 259 (1) (*a*) of the Public Health Act, 1936. The information given does not suggest that the highway authority can be liable, and consideration of the question whether the pond forms part of a watercourse might lead to unnecessary complications.

7.—Sanitary Conveniences—*Litter bins—Provision in private land.*

An estate comprising a lake with boating facilities and woods adjoining is privately owned, but the public are admitted thereto at all times of the year without payment, and in the summer it is a popular resort. There are no suitable conveniences and the owners desire to know if the rural district council or parish council have power to contribute wholly or in part to the cost of providing suitable conveniences and the collection of litter.

B.S.D.

Answer.

Section 87 of the Public Health Act, 1936, empowers the rural district council to provide public sanitary conveniences in proper and convenient situations. This takes the place of s. 47 of the Public Health Acts Amendment Act, 1907, by which they could do so in or under any street. The omission of the last five words indicates, in our opinion, that the power is now exercisable in proper places in private land, if the owner agrees. Section 76 of the Act of 1936 empowers the rural district council to provide receptacles for refuse in streets and public places. The latter are not defined, but (being obviously not the same as streets) may in our opinion fairly be regarded as including, where the owner agrees, private land to which in fact the public have access. The section goes on to say that the council may sell the refuse removed by them, so evidently they can collect it.

The powers are those of the district council, but s. 88 of the Local Government Act, 1933, enables them to delegate to the parish council if the latter are willing. It would, for example, be possible for the district council to meet the capital expenditure and for the parish council to attend to emptying and cleaning.

8.—Town and Country Planning—*Consent refused because of insufficient sewerage.*

1. The council of a non-county borough exercises the part III functions of the Town and Country Planning Act, 1947, under a delegation agreement with the county council.

2. During the last five years the size of the borough both in the number of houses and population has increased rapidly. The sewerage system was largely constructed at the beginning of the century, and no major alterations or schemes have taken place. As a result of the big increase of population the system at some periods is unable satisfactorily to cope with demands.

3. It is desired to refuse future planning applications for residential development, on the ground that the existing sewerage facilities will be unable to absorb the demands created by the proposed development.

4. Please advise whether this is a legal ground for the refusal of planning permission, and a valid reason to be given on the document of refusal, and whether refusal of all such applications on this ground is *intra vires*.

DOLAR.

Answer.

The phrase "all such applications" in the query might mean adoption of a fixed policy; each applicant is entitled to have his proposal judged on its own merits, but this ground for refusal is valid. It is recognized in s. 20 (3) of the Town and Country Planning Act, 1954. The council will no doubt bear in mind s. 14 of the Public Health Act, 1936.